

open to competition would remove Ameritech's incentive to implement the interconnection, unbundling and resale provisions of Section 251 at a time when that incentive is needed the most. *Now* is the time when the Commission can lay the groundwork to repeat the success found in the interLATA market. Section 251 will go a long way toward providing meaningful opportunities for providers of all sizes and affiliations to use various market entry vehicles. However, the Commission must make sure that these changes actually are implemented before it authorizes Ameritech or any other BOC to enter its in-region interLATA market.

Furthermore, premature entry by Ameritech, before competition develops in the local exchange and exchange access markets, will give Ameritech an anticompetitive advantage over competitors. If, as expected, a significant percentage of local exchange customers prefer "one-stop shopping" for local and long distance service, approval of Ameritech's application at this time will cede the "one-stop shopping" market to Ameritech. Because the interLATA market already is mature and substantially competitive, Ameritech, like SNET in Connecticut, may draw upon established wholesale and retail mechanisms to quickly and easily provide service to prospective long distance customers. On the other hand, competitors currently do not have an equivalent opportunities in the local market, so no other carrier will be able to match Ameritech's ability to provide "one-stop shopping" for local and long distance service. Accordingly, the Commission must consider, using traditional antitrust considerations as part of its Section 271 public interest review, whether premature entry by Ameritech into the long distance market will enable it to exploit its unfair competitive advantage as the sole carrier able to provide "one-stop shopping."

Another competitive risk of prematurely approving Ameritech's application is that, if approval is granted at this time when Ameritech has only partially opened its network, such action will threaten the development of competition in areas that have not been opened. As the Commission has recognized, "[t]he Act contemplates three paths of entry into the local market -- the construction of new networks, the use of unbundled network elements of the incumbent's network, and resale."<sup>72</sup> However, if the Commission places too much reliance on whether Ameritech has opened its network to facilities-based CLECs and grants Ameritech's application,<sup>73</sup> it runs the risk of eliminating any incentive Ameritech has to open its local markets to other types of entry.

Thus, approval of Ameritech's application at this time, would threaten to "lock in" only one potential path to entry in the local exchange and exchange access markets. While facilities-based local entry has significant prospects, particularly as a viable alternative in the long term, the Commission must bear in mind that for the vast majority of potential entrants, it is neither feasible nor economical to deploy duplicative fiber optic facilities in every market they enter. The platform configuration and service resale are essential to the initial entry strategies of most potential competitors. For demonstration of this, one need only look to the development of competition in the interLATA market. Initially, all of AT&T's

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<sup>72</sup> *Interconnection Order* at ¶¶ 11-12. See also Evaluation of the U.S. Department of Justice - SBC Communications - Oklahoma at 42-43.

<sup>73</sup> The Brooks Fiber, MFS and TCG models focus on only one possible aspect of competitive entry -- namely, use of high capacity fiber ring networks to serve high-density urban areas. Significantly, none of these agreements include any provisions relating to the provision of unbundled local switching, an essential element for carriers intending to rely principally upon unbundled network elements to provide local service. This confirms that the Brooks Fiber, MFS and TCG agreements do not make the road to entry any easier for platform providers.

competitors were resellers of its high capacity dedicated circuits. Gradually, as competitors gained cash flow and traffic volumes increased, they began to deploy their own facilities to replace those obtained from AT&T. Today, there are four national fiber optic networks carrying interLATA communications and scores of regional networks in use throughout the country.

The Commission should ensure that the extent of Ameritech's unbundling does not stifle the growth of competition, "freeze out" large classes of potential competitors, or deny consumers the benefits of full competition in local exchange and exchange access services. Until new entrants have a variety of workable options for entering these markets, grant of Section 271 authority to Ameritech presents the risk of inhibiting the development of diverse competitive local networks and restricting local competition to only a few entities capable of replicating the local fiber ring model of entry in concentrated markets. The public interest is not furthered by local exchange and exchange access competition which is limited to specific markets or classes of customers. The Commission, therefore, should determine that it is not in the public interest to grant Ameritech's application.

## **CONCLUSION**

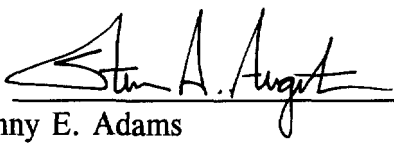
For the foregoing reasons, Ameritech's application for authority to provide in-region interLATA services in Michigan is premature. Ameritech has not opened its network in compliance with the Act, and as a result competitors are being denied the flexibility to enter the local exchange and exchange access markets using the models envisioned by Congress.

In addition, grant of Ameritech's application would not be consistent with the public interest at this time. Accordingly, the Commission should deny the Ameritech application.

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June 10, 1997

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